



STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: March 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013651

[REDACTED]

Dear [REDACTED],

On March 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's March 8, 2016 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the NY State of Health Account ID at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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DEPARTMENT OF HEALTH
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Decision

Decision Date: March 13, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013651

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that you were eligible to purchase a qualified health plan (QHP) at full cost and not eligible for advance payments of the premium tax credit (APTC) effective April 1, 2016?

Procedural History

On November 22, 2015, NYSOH issued an eligibility determination notice stating that you were eligible to receive APTC of up to \$133.00 per month, effective January 1, 2016.

On November 25, 2015, NYSOH issued an enrollment notice confirming that you were enrolled in a QHP with an enrollment start date of January 1, 2016, and your APTC would be applied to your monthly premium effective January 1, 2016.

On February 8, 2016, your 2015 Form 1095-A Health Insurance Marketplace Statement was marked as "RETURN MAIL" by NYSOH, with no forwarding address (see Document [REDACTED]).

On March 7, 2016, your NYSOH account was updated.

On March 8, 2016, NYSOH issued an eligibility determination stating that you were newly eligible to purchase a QHP at full cost, effective April 1, 2016. The

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notice stated that you were not eligible to receive APTC because mail that was sent to you from NYSOH was returned as undeliverable.

Also on March 8, 2016, NYSOH issued an enrollment notice confirming your enrollment in the same QHP, without the application of any APTC, effective January 1, 2016.

On November 30, 2016, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as you did not receive APTC from April 1, 2016 through December 31, 2016.

On March 6, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Testimony was taken during the hearing and the record was left open until March 7, 2017 to allow you to submit a billing summary statement from your QHP.

On March 6, 2017, you submitted a two-page fax to the NYSOH Appeals Unit. That fax included a billing summary statement from your QHP for the period of 12/01/2016-12/31/2016. That fax was made part of the record as "Appellant Exhibit A."

Findings of Fact

A review of the record supports the following findings of fact:

- 1) According to your NYSOH account and testimony, you were enrolled in a QHP, through Excellus BlueCross BlueShield (Excellus), with a monthly premium of \$235.09, effective January 1, 2016.
- 2) You testified that your current mailing address is as listed at the top of this decision and has not changed since 2012.
- 3) According to your NYSOH account, the mailing address listed in your account has never been changed.
- 4) According to your NYSOH account, your 2015 Form 1095-A Health Insurance Marketplace Statement, addressed to your mailing address was sent back to NYSOH as "RETURN MAIL" (see Document [REDACTED]).
- 5) According to your NYSOH account, no other notices issued by NYSOH have been returned as undeliverable.
- 6) You testified that you never received a notice from NYSOH stating that your financial assistance would be discontinued.

- 7) According to your NYSOH account, you have opted to receive notices from NYSOH via electronically.
- 8) You testified that you paid a \$235.09 monthly premium to Excellus from January 1, 2016 through November 31, 2016.
- 9) You testified that you first learned that your financial assistance had been discontinued when you received a billing summary statement from Excellus in November 2016.
- 10) Excellus issued a billing summary statement that you owed \$368.09 for the period of December 1, 2016 through December 31, 2016 and retroactive adjustments of \$1,064.00 (see Appellant's Exhibit A).
- 11) You testified that you contacted NYSOH and were directed to pay the additional premiums because you would be reimbursed after filing your 2016 federal income tax return.
- 12) You testified that you paid the additional \$1,197.00 in health insurance premiums to Excellus and are seeking to be reimbursed for that amount.
- 13) You testified that you are unable to file your 2016 federal income tax return because your 2016 Form 1095-A Health Insurance Marketplace Statements are inconsistent.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

State Residency Requirement

To be eligible for enrollment in a QHP and eligible to receive APTC through NYSOH, an applicant must be a resident of New York State (45 CFR § 155.305(a)(3), (f)(1)(ii)(A)).

For an individual who is aged 21 or older, not living in an institution, and able to indicate intent, that individual is deemed to be a resident of the Exchange service area in which or she lives and either a) intends to reside, even without a fixed address, or b) has entered with a job commitment or is seeking employment. (45 CFR § 155.305(a)(3)(i)).

Legal Analysis

The issue under review is whether NYSOH properly determined that you were not eligible for financial assistance effective April 1, 2016.

NYSOH is required to determine whether individuals are eligible to enroll in coverage and obtain APTC through NYSOH and must confirm, among other things, that their residency status is satisfactory.

You were enrolled in a QHP, through Excellus, with financial assistance effective January 1, 2016. However, your 2015 Form 1095-A Health Insurance Marketplace Statement, addressed to your mailing address as listed on your NYSOH account was sent back to NYSOH as undeliverable. As a result, on March 8, 2016, NYSOH redetermined your eligibility and issued a notice stating that you were not eligible for APTC because the notice was returned as undeliverable.

You testified that your current mailing address is the address listed on your NYSOH and has not changed since 2012. Furthermore, the record supports that your mailing address has never been changed and the 2015 FORM 1095-A has been the only document from NYSOH that has been returned as undeliverable.

You testified that you were unaware that you were no longer eligible for financial assistance because you were consistently billed \$235.09 for your health insurance premium. However, your health plan issued you a billing summary statement in November 2016 that you owed \$368.09 for the period of December 1, 2016 through December 31, 2016 and \$1,064.00 for retroactive adjustments.

The record supports that you have had the same mailing address since 2012. There is sufficient evidence in the record to conclude that you have continuously retained New York State residency and no other issue regarding your eligibility existed. Therefore, your financial assistance was improperly discontinued effective March 31, 2016.

The March 8, 2016 eligibility determination notice stating that you were eligible to purchase a QHP at full cost through NYSOH as of April 1, 2016 is RESCINDED.

Your case is RETURNED to NYSOH to facilitate the reinstatement of your \$133.00 of APTC for the period of April 1, 2016 through December 31, 2016.

During the hearing you testified that you are unable to file your 2016 federal income tax return because your 2016 Form 1095-A Health Insurance Marketplace Statements are inconsistent. Therefore, your case is also RETURNED to NYSOH to facilitate the issuance of an updated 2016 Form 1095-A Health Insurance Marketplace Statement.

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Decision

The March 8, 2016, eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to facilitate the reinstatement of your \$133.00 of APTC for the period of April 1, 2016 through December 31, 2016, and to notify you accordingly.

Your case is RETURNED to NYSOH to facilitate reimbursement of the adjusted premium amount you paid to Excellus.

Your case is also RETURNED to NYSOH to facilitate the issuance of an updated 2016 Form 1095-A Health Insurance Marketplace Statement.

Effective Date of this Decision: March 13, 2017

How this Decision Affects Your Eligibility

NYSOH incorrectly terminated your financial assistance effective April 1, 2016.

NYSOH will ensure that you receive APTC for the months April 2016 through December 2016, and will notify you once this has occurred.

NYSOH will assist you in being reimbursed by Excellus for the adjusted premium amount you were required to pay.

NYSOH will issue an updated 2016 Form 1095-A Health Insurance Marketplace Statement with the corrected amounts of monthly APTC for the months of April 2016 through December 2016.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be

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appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
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- By fax: 1-855-900-5557

Summary

The March 8, 2016, eligibility determination notice is RESCINDED.

Your case is RETURNED to NYSOH to facilitate the reinstatement of your \$133.00 of APTC for the period of April 1, 2016 through December 31, 2016, and to notify you accordingly.

Your case is RETURNED to NYSOH to facilitate reimbursement of the adjusted premium amount you paid to Excellus.

Your case is also RETURNED to NYSOH to facilitate the issuance of an updated 2016 Form 1095-A Health Insurance Marketplace Statement.

NYSOH incorrectly terminated your financial assistance effective April 1, 2016.

NYSOH will ensure that you receive APTC for the months April 2016 through December 2016, and will notify you once this has occurred.

NYSOH will assist you in being reimbursed by Excellus for the adjusted premium amount you were required to pay.

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NYSOH will issue an updated 2016 Form 1095-A Health Insurance Marketplace Statement with the corrected amounts of monthly APTC for the months of April 2016 through December 2016.

Legal Authority

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A Copy of this Decision Has Been Provided To:

